

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL ACTION NO. 4:12-CR-099
§
DAVID CHANCE LADOUCEUR §

**AMENDED
REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted hearings on July 5, July 19, and August 22, 2017, to determine whether Defendant violated his supervised release. Defendant initially proceeded pro se and then upon Defendant's request, his self-representation was terminated, counsel appeared on behalf of Defendant and Defendant was thereafter represented by CJA Counsel, John Hunter Smith. The Government was represented by Maureen Smith.

David Chance Ladouceur was sentenced on July 3, 2013, before The Honorable Marcia A. Crone of the Eastern District of Texas after being found guilty of the offense of Possession of a Firearm and Ammunition by a Prohibited Person, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 20 and a criminal history category of II, was 37 to 46 months. David Chance Ladouceur was subsequently sentenced to 46 months imprisonment followed by a 3-year term of supervised release subject to the standard conditions of release plus special conditions to include financial disclosure, drug testing and treatment, and mental health treatment.

On May 3, 2017, a Petition for Warrant or Summons for Offender Under Supervision was filed alleging Defendant David Chance Ladouceur violated certain conditions of his supervised release [Dkt. 102]. The petition alleges that David Chance Ladouceur violated the following conditions of release: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer; and (4) Defendant shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.

The Petition alleges that Defendant committed the following specific acts: (1) On or about March 13, 2017, and March 14, 2017, in Denton County, Texas, Defendant committed the offenses of Sexual Assault and Aggravated Assault with a Deadly Weapon; (2) and (3) On December 30, 2015, Defendant submitted a urine specimen, which tested positive for marijuana. The specimen was confirmed positive for marijuana by Alere Toxicology Services, Inc; and (4) On April 13, 2017, the offender failed to report for an office visit after being instructed to do so.

At the July 19, 2017 hearing on this matter, the Court, having considered the evidence presented, the witnesses' testimony and/or the parties' proffers, found that the Defendant did violate his supervised release; that allegations 1, 3 and 4 are true and that the Defendant's supervised release should be revoked.

At a hearing held on August 22, 2017, the Court considered the Government's Motion for Reconsideration [Dkt. 132] as it relates to the punishment range recommended at the July 19, 2017 hearing. The Court grants the Government's Motion for Reconsideration and will recommend a

sentence of twenty-one (21) months with no supervised release to follow.

At the hearing on August 22, 2017, Defendant waived his right to allocute before the District Judge and his right to object to this amended report and recommendation of this Court. The Government also waived its right to object.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 21 months' imprisonment, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons facility in Texarkana, Texas, if appropriate.

SIGNED this 22nd day of August, 2017.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE